



## DETENTION ORDER - Page 2

- X   The defendant has a prior record of failure to appear at court proceedings.
- (b) At the time of the current arrest, the defendant was on:
- Probation
- Parole
- Release pending trial, sentence, appeal or completion of sentence.
- (c) Other Factors:
- The defendant is an illegal alien and is subject to deportation.
- The defendant is a legal alien and will be subject to deportation if convicted.
- The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.
- Other: \_\_\_\_\_

- X   (4) The nature and seriousness of the danger posed by the defendant's release are as follows: The records of NCIC/NCIS, and the Nebraska Department of Motor Vehicles were accessed to compile the following criminal record of Kevin Spellman, DOB: 03/11/1981:

<u>Date of Offense</u>	<u>Location</u>	<u>Charge</u>	<u>Disposition</u>
12/23/93	Omaha, NE	Shoplifting	01/20/95: Dism/Co Atty
06/11/94	Omaha, NE	1) Receive Stolen Item ( <b>felony</b> ) 2) Receive Stolen Item	06/11/94: 1) Reference Juvenile 04/10/95: 2) Found
05/26/95	Omaha, NE	Receive Stolen Item ( <b>felony</b> )	11/15/95: Found
07/12/95	Omaha, NE	1) Burglary ( <b>felony</b> ) 2) Receive Stolen Item ( <b>felony</b> )	11/15/95: 1) Dism/Co Atty 2) Found
08/26/96	Omaha, NE	1) Possess Stolen Firearm ( <b>felony</b> ) 2) Possession of Crack Cocaine (felony)	10/25/96: 1) Found 2) Dism/Co Atty
04/11/97	Omaha, NE	1) Possess Stolen Firearm ( <b>felony</b> ) 2) Concealed Weapon	04/11/97: 1) Declined 07/01/97: 2) 60 days jail

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10/02/97	Omaha, NE	1) Littering 2) Willful Reckless Driving 3) Obstruct Officer 4) Flight to Avoid Arrest	11/21/97: 1) Dism/Court 2) Dism/Court 3) Dism/Court 4) 4 months jail
10/14/97	Omaha, NE	1) Receive Stolen Item ( <b>felony</b> ) 2) Flight to Avoid Arrest ( <b>felony</b> ) 3) False Information 4) Willful Reckless Driving 5) Obstruct Officer 6) Littering 7) Flight to Avoid Arrest	11/04/97: 1) Dism/Pros 2) Dism/Pros 11/20/97: 3) Dism/Court 4) Dism/Court 5) Dism/Court 6) Dism/Court 7) Dism/Court
04/20/98	Omaha, NE	1) Driving During Suspension 2) Improper Display Plates 3) No Valid Registration 4) Leaving the Scene 5) Failure to Appear	05/29/98: 1) 60 days jail; license suspension 2) 60 days jail 3) 60 days jail 4) 60 days jail 5) 60 days jail
<i>*Warrant issued on 05/19/98, for failure to appear, which was returned on 05/28/98.</i>			
05/28/98	Omaha, NE	False Information	05/28/98: 1 days jail
08/17/98	Omaha, NE	1) Possession with Intent to Distribute Controlled Substance ( <b>felony</b> ) 2) Possession of Marijuana 1 oz or less 3) Obstruct Officer	02/05/99: 1) 1 year jail 08/17/98: 2) Declined 3) Declined
04/29/99	Omaha, NE	1) Driving During Suspension 2) False Information	09/09/99: 1) Dism/Pros 2) Dism/Pros
05/24/99	Omaha, NE	1) Driving During Suspension 2) Possession of Marijuana 1oz or less 3) Possession of Drug Paraphernalia 4) Failure to Appear	09/09/99: 1) 90 days jail; license suspension 2) \$100 fine 3) Dism/Court 4) Dism/Court

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06/10/99	Omaha, NE	1) Driving During Suspension 2) Possession of Marijuana 1oz or less	07/20/99: 1) 30 days jail; license suspension 2) \$100 fine
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07/02/99	Omaha, NE	1) Leaving the Scene 2) Driving During Suspension 3) Violation of Probation	01/27/00: 1) 12 months probation 2) 12 months probation; \$150 fine 06/21/00: 3) Reference other entry
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*\*Warrant issued on 04/19/00, for probation violation, which was returned on 06/22/00. Another bench warrant was issued on 09/14/00, for failure to pay fine, which was returned on 10/02/00.*

07/05/99	Omaha, NE	1) Possession of a Controlled Substance ( <b>felony</b> ) 2) Driving Under the Influence 3) Possession of Marijuana 1oz or less 4) Driving During Suspension 5) Driving During Suspension	02/08/00: 1) 16 days jail 08/12/99: 2) 7 days jail; \$400 fine; license revocation 3) \$100 fine 4) Dism/Court 07/06/99: 5) Declined
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11/11/99	Omaha, NE	1) Possession of a Controlled Substance ( <b>felony</b> ) 2) Tampering with Evidence ( <b>felony</b> ) 3) Obstruct Officer 4) Possession of a Marijuana 1oz or less	01/10/00: 1) Dism/Co Atty 11/12/99: 2) Declined 3) Declined 4) Declined
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02/09/00	Omaha, NE	No Operator's License	09/14/00: Dism/Pros
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*\*Warrant issued on 04/27/00, which was returned on 06/22/00.*

08/27/00	Omaha, NE	1) Assault & Battery 2) Disorderly Conduct	11/20/00: 1) 12 months probation; \$100 fine. 2) Dism/Court
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*\*Warrant issued on 03/02/01, which was returned on 04/20/01.*

10/15/00	Omaha, NE	1) Driving During Suspension 2) Stop Sign	11/16/00: 1) Declined 11/21/00: 2) \$25 fine
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*\*Warrant issued on 02/12/01, which was cancelled on 02/20/01.*

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10/16/00	Omaha, NE	1) Driving During Suspension 2) Obstruct Officer 3) Failure to Appear	11/15/00: 1) Declined 11/21/00: 2) \$75 fine 3) \$25 fine
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*\*Warrant issued on 02/12/01, which was cancelled on 02/20/01.*

02/07/01	Omaha, NE	Possession of Marijuana 1oz or less	03/07/01: \$100 fine
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*\*Warrant issued on 04/26/01, which was returned on 05/02/01.*

02/21/01	Omaha, NE	1) No Operator's License 2) Failure to Appear	05/11/01: 1) \$50 fine 2) Dism/Court
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*\*Warrant issued on 04/17/01, for failure to appear, which was returned on 04/20/01.*

04/20/01	Omaha, NE	Possession of Marijuana 1oz or less	05/11/01: \$100 fine
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*\*Warrant issued on 07/09/01, for failure to pay fine, which was returned on 07/10/01.*

05/30/01	Omaha, NE	Possession with Intent to Deliver Controlled Substance ( <b>felony</b> )	01/31/02: 5 years jail 09/18/04: Discharged, no parole
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11/21/01	Omaha, NE	1) Open Container 2) Minor in Possession of Liquor	01/16/02: 1) Dism/Court 2) \$200 fine
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*\*Warrant issued on 03/06/02, for failure to pay fine, which was cancelled on 10/10/02.*

01/04/02	Omaha, NE	1) Possession of Drug Paraphernalia 2) Possession of Marijuana 1oz or less 3) Driving During Suspension 4) Reckless Driving	02/14/02: 1) Dism/Court 2) Dism/Court 3) 30 days jail; license revocation 4) Dism/Court
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01/24/02	Omaha, NE	1) Driving Under Suspension 2) Financial Responsibility 3) Failure to Appear	10/27/03: 1) \$75 fine 2) Dism/Court 3) Dism/Court
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*\*Warrant issued on 02/27/02, for failure to appear, which was returned on 10/06/03.*

01/26/02	Omaha, NE	1) Driving Under Suspension 2) Financial Responsibility 3) Failure to Appear	10/15/02: 1) Dism/Court 2) \$100 fine 3) Dism/Court
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*\*Warrant issued on 03/05/02, for failure to appear, which was cancelled on 10/15/02.*

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10/04/03	Omaha, NE	Driving During Suspension	11/10/03: \$75 fine
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11/08/04	Omaha, NE	Driving During Suspension	01/13/05: \$50 fine
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*\*Warrant issued on 03/14/05, which was cancelled on 03/18/05.*

11/11/04	Omaha, NE	1) Driving During Suspension 2) Possession of Marijuana 1oz or less	01/20/05: 1) Dism/Court 2) \$300 fine
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*\*Warrant issued on 03/14/05, which was returned on 04/20/05. A second warrant was issued on 05/04/05, which was returned on 08/11/05.*

04/20/05	Omaha, NE	Driving During Suspension	07/12/05: \$100 fine
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08/10/05	Omaha, NE	Delivery of Crack Cocaine ( <b>felony</b> )	08/12/05: Bound over <b>**Instant Offense**</b>
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The defendant has a substance abuse history. He fled from the police at the time of his arrest. His proposed custodian, his wife, was unaware of his marihuana habit and housed the defendant since his release from the correctional facility while the defendant continued to offend.

  X   (5) **Rebuttable Presumptions**

In determining that the defendant should be detained, the Court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted:

- X   (a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves:
- (1) A crime of violence; or
  - X   (2) An offense for which the maximum penalty is life imprisonment or death; or
  - X   (3) A controlled substance violation which has a maximum penalty of 10 years or more; or
  - (4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, and the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed while the defendant was on pretrial release.
- X   (b) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe:
- X   (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more.

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- (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

D. **Additional Directives**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: October 7, 2005.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge